



FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060-1088; FR ID 74384]

Information Collection Being Submitted for Review and Approval to Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Pursuant to the Small Business Paperwork Relief Act of 2002, the FCC seeks specific comment on how it can further reduce the information collection burden for small business concerns with fewer than 25 employees.

DATES: Written comments and recommendations for the proposed information collection should be submitted on or before **[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Comments should be sent to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review - Open for Public Comments" or by using the search function. Your comment must be submitted into www.reginfo.gov per the above instructions for it to be considered. In addition to submitting in www.reginfo.gov also send a copy of your comment on the proposed information collection to Cathy Williams, FCC, via email to PRA@fcc.gov and to Cathy.Williams@fcc.gov. Include in the comments the OMB control number as shown in the SUPPLEMENTARY INFORMATION below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418-2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) go to the web page <https://www.reginfo.gov/public/do/PRAMain>, (2) look for the section of the Web page called "Currently Under Review," (3) click on the downward-pointing arrow in the "Select Agency" box below the

"Currently Under Review" heading, (4) select "Federal Communications Commission" from the list of agencies presented in the "Select Agency" box, (5) click the "Submit" button to the right of the "Select Agency" box, (6) when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501-3520), the FCC invited the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4), the FCC seeks specific comment on how it might "further reduce the information collection burden for small business concerns with fewer than 25 employees."

OMB Control Number: 3060-1088.

Title: Rules and Regulations Implementing the Telephone Consumer Protection Act (TCPA) of 1991, Report and Order and Third Order on Reconsideration, CG Docket No. 05-338, FCC 06-42.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; Not-for-profit institutions; and Individuals or households.

Number of Respondents and Responses: 5,340,000 respondents; 6,050,905 responses.

Estimated Time per Response: 3 minutes (.05 hours) to 30 minutes (.50 hours).

Frequency of Response: Annual, monthly, and on occasion reporting requirements; Recordkeeping; and Third party disclosure.

Obligation to Respond: Required to obtain or retain benefits. The authorizing statutes for this information collection are: Telephone Consumer Protection Act of 1991, Public Law 102-243, 105 Stat. 2394 (1991); Junk Fax Prevention Act, Public Law 109-21, 119 Stat. 359 (2005).

Total Annual Burden: 3,670,625 hours.

Total Annual Cost: \$1,062,142.

Needs and Uses: On April 5, 2006, the Commission adopted a Report and Order and Third Order on Reconsideration, In the Matter of Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991; Junk Fax Prevention Act of 2005, CG Docket Nos. 02-278 and 05-338, FCC 06-42, which modified the Commission's facsimile advertising rules to implement the Junk Fax Prevention Act. The Report and Order and Third Order on Reconsideration contained information collection requirements pertaining to: (1) Opt-out Notice and Do-Not-Fax Requests Recordkeeping in which the rules require senders of unsolicited facsimile advertisements to include a notice on the first page of the facsimile that informs the recipient of the ability and means to request that they not receive future unsolicited facsimile advertisements from the sender; (2) Established Business Relationship Recordkeeping whereas the Junk Fax Prevention Act provides that the sender, e.g., a person, business, or a nonprofit/institution, is prohibited from faxing an unsolicited advertisement to a facsimile machine unless the sender has an "established business relationship" (EBR) with the recipient; (3) Facsimile Number Recordkeeping in which the Junk Fax Prevention Act provides that an EBR alone does not entitle a sender to fax an advertisement to an individual or business. The fax number must also be provided voluntarily by the recipient; and (4) Express Invitation or Permission Recordkeeping where in the absence of an EBR, the sender must obtain the prior express invitation or permission from the consumer before sending the facsimile advertisement.

On October 14, 2008, the Commission released an Order on Reconsideration, FCC 08-239, addressing certain issues raised in petitions for reconsideration and/or clarification filed in response to the Commission's Report and Order and Third Order on Reconsideration (Junk Fax Order), FCC 06-42. In document FCC 08-239, the Commission clarified that: (1) Facsimile numbers compiled by third parties

on behalf of the facsimile sender will be presumed to have been made voluntarily available for public distribution so long as they are obtained from the intended recipient's own directory, advertisement, or Internet site; (2) Reasonable steps to verify that a recipient has agreed to make available a facsimile number for public distribution may include methods other than direct contact with the recipient; and (3) a description of the facsimile sender's opt-out mechanism on the first web page to which recipients are directed in the opt-out notice satisfies the requirement that such a description appear on the first page of the website.

The Commission believes these clarifications will assist senders of facsimile advertisements in complying with the Commission's rules in a manner that minimizes regulatory compliance costs while maintaining the protections afforded consumers under the Telephone Consumer Protection Act (TCPA).

Federal Communications Commission.

Marlene Dortch,
Secretary,
Office of the Secretary.